

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASCADE YARNS, INC.,

Plaintiff/Counterclaim
Defendant,

v.

KNITTING FEVER, INC., et al.,

Defendants/Counterclaim
Plaintiffs/Third-Party
Plaintiffs,

v.

ROBERT DUNBABIN, SR., et al.,

Third-Party Defendants.

CASE NO. C10-861RSM

ORDER STRIKING TRIAL DATE
AND PENDING MOTIONS

CASCADE YARNS, INC.,

Plaintiff,

v.

EMMEPIEFFE S.R.L., a foreign limited liability
corporation,

Defendant.

The Court, having considered the motions pending in this case and the approaching trial date,
does now find and ORDER:

(1) On October 18, 2012, the Court granted defendants' motion to exclude the testimony and

ORDER - 1

1 reports of plaintiff's expert on yarn fiber testing, Kenneth D. Langley. Dkt. # 865. On October 29,
2 2012, the Court issued an Order on the parties' cross-motions for summary judgment as to plaintiff's
3 four remaining claims in this action. Dkt. # 886. The Court denied plaintiff's motion and granted
4 defendants' two summary judgment motions, resulting in the dismissal of plaintiff's claims against all
5 defendants, except for the third-party claims against Emmepieffe SRL. *Id.* On October 30, 2012, the
6 Court granted plaintiff's motion to exclude the testimony and reports of defendants' expert on yarn fiber
7 testing Adam Varley. Dkt. # 887. This resulted in today's Order dismissing defendants' counterclaims
8 against plaintiff which are based on alleged mislabeling of plaintiff's yarns as to fiber content.¹ Dkt. #
9 891.

10 (2) Plaintiff has filed an additional motion for summary judgment directed to defendants' five
11 counterclaims based on plaintiff's statements about defendants' yarns. Dkt. # 722. The Court is unable
12 to consider this motion, as the arguments in the briefing by both parties are based on the now-excluded
13 fiber test reports. The arguments need to be re-cast in light of the Court's ruling that the fiber test
14 reports of Langley are unreliable, and the separate exclusion of the Varley test results. Accordingly, the
15 Court now STRIKES this motion for summary judgment on counterclaims (Dkt. # 722), without
16 prejudice to renewal. Such renewed motion shall be filed by November 20, 2012.

17 (3) In light of this ruling, as well as the dismissal of all of plaintiff's claims against defendants
18 Knitting Fever, Inc., KFI, Inc., Designer Yarns Ltd., Sion Elalouf, Jay Opperman, and Debbie Bliss, the
19 Court also STRIKES the trial date of November 5, 2012 and cancels the pre-trial conference set for
20 November 2, 2012. A new trial date shall be set following the Court's ruling on the summary judgment
21 motions contemplated by this Order.

22 (4) The Court also STRIKES from the motion calendar the following pending pretrial motions,
23 which include pending motions to strike experts, motions in limine, and corresponding motions to seal:
24 Dkt. ## 825, 826, 830, 831, 835, 836, 838, 839, and 840. The Clerk shall maintain the related sealed
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26 ¹The dismissal of the counterclaims which allege mislabeling of Cascade's yarns as to fiber
27 content appears to moot Cascade's third-party claims against Emmepieffe Srl, but this defendant has not
had time to move for dismissal on that basis. Such motion may be filed by November 20, 2012.

1 documents under seal.

2 (5) The pending objections to Discovery Order 15 (Dkt. # 866) and plaintiff's motion for relief
3 of deadlines (Dkt. # 883) remain on the Court's calendar and shall be considered in due course.

4 Dated this 31st day of October 2012.

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8 RICARDO S. MARTINEZ
9 UNITED STATES DISTRICT JUDGE
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